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BEFORE THE ARIZONA CORPORATION COMMISSION

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- GARY PIERCE - Chairman
- BOB STUMP
- SANDRA D. KENNEDY
- PAUL NEWMAN
- BRENDA BURNS

AZ CORP COMMISSION DOCKET CONTROL

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IN THE MATTER OF THE APPLICATION OF WOODRUFF WATER COMPANY, INC. FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE WATER SERVICE IN PINAL COUNTY, ARIZONA.

DOCKET NO. W-04264A-04-0438

IN THE MATTER OF THE APPLICATION OF WOODRUFF UTILITY COMPANY, INC. FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE SEWER SERVICE IN PINAL COUNTY, ARIZONA.

DOCKET NO. SW-04265A-04-0439

IN THE MATTER OF THE APPLICATION OF ARIZONA WATER COMPANY, AN ARIZONA CORPORATION, TO EXTEND ITS EXISTING CERTIFICATES OF CONVENIENCE AND NECESSITY AT CASA GRANDE AND COOLIDGE, PINAL COUNTY, ARIZONA.

DOCKET NO. W-01445A-04-0755

PROCEDURAL ORDER

BY THE COMMISSION:

On February 2, 2006, in Decision No. 68453, the Commission granted to Woodruff Water Company, Inc. ("WWC") and to Woodruff Utility Company, Inc. ("WUC") Certificates of Convenience and Necessity ("CC&Ns") to provide water utility service and wastewater utility service in a 3,200-acre parcel between Casa Grande and Coolidge, in Pinal County, that was to be developed as a master-planned subdivision known as Sandia ("Sandia parcel"). The Decision also dealt with an Arizona Water Company ("AWC") application to extend its CC&N to include an area known as Martin Ranch, the Sandia parcel, and other surrounding parcels. The Decision granted AWC a CC&N extension as to Martin Ranch, but denied AWC's application as to the Sandia parcel and the other surrounding parcels.¹

...

¹ AWC appealed Decision No. 68453, which was ultimately affirmed by the Arizona Court of Appeals. (*Arizona Water Co. v. Arizona Corp. Comm'n*, 217 Ariz. 652 (Ariz. Ct. App. 2008).

1 In Decision No. 68453, the Commission required, *inter alia*, that WWC and WUC each file a
2 rate application no later than three months after the fifth anniversary of the effective date of the
3 Decision (by May 2, 2011) and that WWC notify the Utilities Division Compliance Section within 30
4 days of initiating service to its first customer. The Commission also found that WWC had already
5 commenced providing water service to one customer:

6 In order to secure its service area right, WWC is required to provide
7 service for one year and toward this end, WWC has been providing water
8 service to the owners of the farm that sold their land to Pivotal. The
9 application for the service area right was filed on or about September 1,
2004, and according to the rules of the Arizona Department of Water
Resources ("ADWR"), Mr. Polen expected that the service area right
would be established by September, 2005.²

10 On March 3, 2006, WWC and WUC filed a Notice of Filing Water Tariff and Sewer Tariff
11 and Notice of Initiation of Water Service to First Customer ("Notice"). In the Notice, WWC stated
12 that it had commenced water service to its first customer on or about September 1, 2004, in
13 connection with WWC's Initial Request to Establish a New Service Area Right, filed with ADWR.

14 WWC and WUC made additional compliance filings in January 2007 and January 2008.

15 In January 2010 and January 2011, compliance filings on behalf of WUC were made by
16 Desert Troon Companies ("Desert Troon").

17 On May 31, 2011, Desert Troon filed, on behalf of WWC and WUC, letters requesting
18 amendment of Decision No. 68543 so that rate applications need not be filed until project
19 development commences. The letters state that in late 2009, the original developer transferred
20 ownership and management of the entities owning the Sandia parcel, WWC, and WUC. The WWC
21 letter also states that "there are no plans to develop the community any time in the near future, nor
22 will the facility provide public water services in the near future." The WUC letter likewise states that
23 "there are no plans to develop the community any time in the near future, nor will the facility become
24 operational in the near future." Both letters request, in the alternative, that the Commission grant a
25 five-year extension to file a rate application. Neither letter explains to what extent development has
26 occurred in the Sandia parcel; to what extent WWC and WUC have constructed facilities to provide
27

28 ² Decision No. 68543 at 9.

1 water and wastewater service; and to what extent water and/or wastewater services have been or are
2 currently being provided to properties in the Sandia parcel. Nor is there any detail provided
3 concerning how WWC and WUC came to be owned by Desert Troon.

4 On July 5, 2011, the Commission's Utilities Division ("Staff") filed a Memorandum
5 recommending that the rate application filing deadlines for WWC and WUC be extended to a date no
6 later than five years after service is provided to their first customers. Staff further recommended that
7 WWC and WUC be required to file notice in this docket, within 15 days after commencing service to
8 their first customers, as to the date of commencing service. Staff did not provide any additional
9 information about the current state of development in the Sandia parcel and did not mention that
10 WWC had filed notice of service to its first customer in March 2006.

11 On July 22, 2011, a Procedural Order was issued requiring WWC and WUC to file, by August
12 11, 2011, comprehensive responses to specified questions and requiring Staff to review the
13 information filed by WWC and WUC and to file, by September 12, 2011, a supplemental filing
14 providing Staff's analysis of the information and including any revised or new Staff
15 recommendations.

16 On July 28, 2011, WWC and WUC filed a Request to Extend Filing Deadline, explaining that
17 although they have been working to assemble the information required by the Procedural Order, they
18 need additional time to complete the requested filing due to scheduling conflicts that have made it
19 difficult for WWC and WUC to meet with counsel. WWC and WUC requested that their filing
20 deadline be extended to August 25, 2011, and that Staff's filing deadline likewise be extended to
21 September 26, 2011. WWC and WUC asserted that the extension request had been discussed with
22 Staff and that Staff had no objection.

23 Because WWC and WUC require additional time to compile comprehensive responses to the
24 inquiries posed in the Procedural Order of July 11, 2011, and Staff has no objection to extending the
25 deadlines as requested by WWC and WUC, it is reasonable and appropriate and in the public interest
26 to grant the requested extension of deadlines.

27 IT IS THEREFORE ORDERED that the **deadline for WWC and WUC** to make the filing
28 described in the Procedural Order of July 11, 2011, is hereby **extended to August 25, 2011.**

1 IT IS FURTHER ORDERED that the **deadline for Staff** to make the filing described in the
2 Procedural Order of July 11, 2011, is hereby **extended to September 26, 2011**.

3 IT IS FURTHER ORDERED that the remaining provisions of the Procedural Order of July
4 11, 2011, continue in effect.

5 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
6 31 and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

7 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
8 Communications) applies to this proceeding and shall remain in effect until the Commission's
9 Decision in this matter is final and non-appealable.

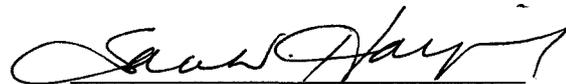
10 IT IS FURTHER ORDERED that any motion filed in this matter, other than a motion to
11 intervene, that is not ruled upon by the Commission within 20 calendar days of the filing date of the
12 motion shall be deemed denied.

13 IT IS FURTHER ORDERED that any response to a motion, other than a motion to intervene,
14 shall be filed within five calendar days of the filing date of the motion.

15 IT IS FURTHER ORDERED that any reply related to a motion shall be filed within five
16 calendar days of the filing date of the response to the motion.

17 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
18 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
19 hearing.

20 DATED this 1st day of August, 2011.

21
22 
23 SARAH N. HARPRING
24 ADMINISTRATIVE LAW JUDGE

25 Copies of the foregoing mailed/delivered
26 this 1st day of August, 2011, to:

27 Jon P. Coulter, Director of Construction
28 DESERT TROON COMPANIES
17207 North Perimeter Drive, Suite 200
Scottsdale, AZ 85255

1 Jeffrey W. Crockett
BROWNSTEIN HYATT FARBER SCHRECK, LLP
2 40 North Central Avenue, 14th Floor
Phoenix, AZ 85004
3 Attorney for Woodruff Water Company, Inc.
and Woodruff Utility Company, Inc.
4

5 Robert W. Geake
ARIZONA WATER COMPANY
P.O. Box 29006
6 Phoenix, AZ 85038-9006

7 Steven A. Hirsch
BRYAN CAVE, LLP
8 Two North Central Avenue, Suite 2200
Phoenix, AZ 85004-4406
9 Attorney for Arizona Water Company

10 Denis Fitzgibbons
COOLIDGE CITY ATTORNEY
11 711 East Cottonwood, Suite E
Casa Grande, AZ 85230-1208
12

13 Ursula H. Gordwin
CASA GRANDE ASSISTANT CITY ATTORNEY
510 East Florence Boulevard
14 Casa Grande, AZ 85222

15 Michael Patten
ROSHKA, DEWULF & PATTEN, PLC
16 One Arizona Center
400 East Van Buren Street, Suite 800
17 Phoenix, AZ 85004
Attorneys for Pulte Home Corporation
18

19 Janice Alward, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
20 1200 West Washington Street
Phoenix, AZ 85007
21

22 Steven M. Olea, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
23 1200 West Washington Street
Phoenix, AZ 85007
24

25 By: 
Debra Broyles
26 Secretary to Sarah N. Harpring
27
28